

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
Case No. 7:20-CV-00096-M

DAVID GARY ELLIOTT,

Plaintiff,

v.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant.

ORDER

This matter comes before the court on a memorandum and recommendation (“M&R”) issued by United States Magistrate Judge Brian S. Meyers (DE 29) with respect to the parties’ cross-motions for judgment on the pleadings. DE 21, 27. Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), Magistrate Judge Meyers recommends that the court grant Plaintiff’s motion, deny Defendant’s motion, and remand the matter to the Commissioner for further proceedings. DE 29. To date, no objections have been filed.¹


A magistrate judge’s recommendation carries no presumptive weight. The court “may accept, reject, or modify, in whole or in part, the . . . recommendation[] . . . receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1); *accord Mathews v. Weber*, 423 U.S. 261, 271 (19 76). The court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection

¹ Judge Meyers issued the M&R on September 16, 2021 and set a deadline for objections to be filed on or before September 23, 2021. *See* Local Civil Rules 1.1 and 72.4(b). No party sought an extension of time in which to file objections. The parties’ motions and M&R were submitted to this court for disposition on September 29, 2021.

is made.” *Id.* § 636(b)(1). Absent a specific and timely objection, the court reviews only for “clear error” and need not give any explanation for adopting the recommendation. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Upon careful review of the M&R and the record presented, and finding no clear error, the court ADOPTS the recommendation of the Magistrate Judge as its own. For the reasons stated therein, Plaintiff’s motion for judgment on the pleadings [DE 21] is GRANTED, Defendant’s motion for judgment on the pleadings [DE 27] is DENIED, and the matter is remanded to the Commissioner for further proceedings consistent with the M&R and this order. The Clerk of Court is directed to close this case.

SO ORDERED this 30th day of September, 2021.



RICHARD E. MYERS II
CHIEF UNITED STATES DISTRICT JUDGE